

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF PENNSYLVANIA

JOE HANDS PROMOTIONS, INC.

Plaintiff,

v.

CIVIL ACTION NO.: 02-cv-3007

HARRY O'S PUB, INC.
d/b/a HARRY O'S PUB
2153 Hancock Street
Philadelphia, PA 19148

and

Harry Sheppard, Jr.
2153 Hancock Street
Philadelphia, PA 19148

Defendants.

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

____ Plaintiff, Kingvision Pay-Per-View Corp., Ltd., moves this Court for entry of a default judgment against Defendant, Harry O's Pub, Inc. d/b/a Harry O's Pub and Harry Sheppard, Jr., pursuant to Fed.R.Civ.P. 55, and states:

1. This is an action for violation of 47 U.S.C. §605 and §553, arising out of the Defendants' willful and illegal interception and misappropriation of a closed circuit exhibition of the June 24, 2000 boxing match between Mike Tyson and Lou Savarese from the Hampton Park in Glasgow, Scotland, including undercard or preliminary bouts (the fight will hereinafter be referred to as the "Event"), at closed-circuit locations, such as theaters, arenas, bars, clubs, lounges, restaurants and

other similar type business establishments throughout Pennsylvania and other geographical locals.

2. The Defendants were duly served with the Complaint and failed to answer or otherwise respond as required by law. Accordingly, the Clerk of this Court entered default against the Defendant on May 21, 2002. As a result of the entry of this default, all allegations contained in the Complaint are deemed admitted. *Nishimatsu Construction Co., v. Houston National Bank*, 515 F.2d 1200 (5th Cir. 1975).
3. Pursuant to 47 U.S.C. §605 and §553, Joe Hands Promotions, Inc. is entitled to statutory damages against the Defendants as follows:
 - a. For each violation of the statute, damages in the amount of between One Thousand Dollars (\$1,000.00) and Ten Thousand Dollars (\$10,000.00), pursuant to §605(e)(3)(C)(I)(II);
 - b. For willful violation of the statute, damages in the amount of between Ten Thousand Dollars (\$10,000.00) and One Hundred Thousand Dollars (\$100,000.00), pursuant to §605(e)(3)(c)(ii);
 - c. For each violation of the statute, damages in the amount of between Two Hundred Fifty Dollars (\$250.00) and Ten Thousand Dollars (\$10,000.00), pursuant to §553(3)(A)(ii); and
 - d. For willful violation of the statute, damages up to Fifty Thousand Dollars (\$50,000.00), pursuant to §553(3)(B);
 - e. Full costs, including reasonable attorneys' fees, pursuant to §605(e)(3)(B)(iii).

4. Attached hereto as Exhibit "A" is the Declaration of Marcus Corwin, President of Joe Hands Promotions, Inc., who attests to the facts contained in the Complaint and the Memorandum of Law in Support of Plaintiff's Motion for Default Judgment. Also attached hereto as Exhibit "B" is a copy of the affidavit of Anthony Iamurri attesting to the fact that the Event was exhibited by the Defendants on June 24, 2000, and describing the number of patrons viewing the Event. Lastly, attached hereto as Exhibit "C," is the Affidavit of Harper & Paul, attorney for Joe Hands Promotions, Inc., attesting to the attorneys' fees and costs incurred on behalf of Joe Hands Promotions, Inc. in this case.

5. Because the amount of damages in this case is discretionary, Joe Hands Promotions, Inc. has filed an accompanying Memorandum of Law which describes the method for calculating the damages in this case.

WHEREFORE, Plaintiff, Joe Hands Promotions, Inc., requests that the Court:

- a. Enter a judgment by default against Defendant, Harry O's Pub, Inc. d/b/a Harry O's Pub and Harry Sheppard, Jr.
- b. Award statutory damages against the Defendant for each violation in the amount of \$10,000.00 each, and additional damages in the amount of \$50,000.00 for each violation based on the Defendants' conduct;
- c. Award attorneys' fees in the amount of \$_____.00, and costs in the amount of \$_____.00 against the Defendant; and
- d. Grant to the Plaintiff such other relief as the Court deems just and proper.

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2153 Hancock Street
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Defendants.

CERTIFICATE OF SERVICE

I, Sharon N. Harvey, HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this ____ day of _____, 2002 to Harry O's Pub, Inc. d/b/a Harry O's Pub and Harry Sheppard, Jr., at 2153 Hancock Street, Philadelphia, PA 19148.

By: _____
SHARON N . HARVEY, Esquire
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